



98TH GENERAL ASSEMBLY

State of Illinois

2013 and 2014

HB3772

by Rep. Michael J. Zalewski

SYNOPSIS AS INTRODUCED:

| | |
|-------------------|-----------------------------|
| 725 ILCS 5/110-2 | from Ch. 38, par. 110-2 |
| 725 ILCS 5/110-10 | from Ch. 38, par. 110-10 |
| 730 ILCS 5/5-8A-3 | from Ch. 38, par. 1005-8A-3 |

Amends the Code of Criminal Procedure of 1963. Provides that as a condition of being released by personal recognizance, the court may order a defendant to be placed under the supervision of the Pretrial Services Agency, Probation Department, County Department of Corrections, or Court Services Department in a pretrial bond home supervision capacity with the use of an approved electronic monitoring device. Provides that as a condition of bail, the court may require the defendant to remain or be placed in the custody of such designated person or organization agreeing to supervise his or her release, with or without the use of an approved electronic monitoring device administered by a Pretrial Services Agency, Probation Department, County Department of Corrections, or Court Services Department. Amends the Unified Code of Corrections. Provides that applications for electronic home detention may include as a condition of bail, as a condition of release on own recognizances, or in lieu of bail.

LRB098 15190 MRW 50176 b

1 AN ACT concerning criminal law.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Code of Criminal Procedure of 1963 is
5 amended by changing Sections 110-2 and 110-10 as follows:

6 (725 ILCS 5/110-2) (from Ch. 38, par. 110-2)

7 Sec. 110-2. Release on own recognizance. When from all the
8 circumstances the court is of the opinion that the defendant
9 will appear as required either before or after conviction and
10 the defendant will not pose a danger to any person or the
11 community and that the defendant will comply with all
12 conditions of bond, which shall include the defendant's current
13 address with a written admonishment to the defendant that he or
14 she must comply with the provisions of Section 110-12 of this
15 Code regarding any change in his or her address, the defendant
16 may be released on his or her own recognizance. The defendant's
17 address shall at all times remain a matter of public record
18 with the clerk of the court. A failure to appear as required by
19 such recognizance shall constitute an offense subject to the
20 penalty provided in Section 32-10 of the Criminal Code of 2012
21 for violation of the bail bond, and any obligated sum fixed in
22 the recognizance shall be forfeited and collected in accordance
23 with subsection (g) of Section 110-7 of this Code.

1 This Section shall be liberally construed to effectuate the
2 purpose of relying upon contempt of court proceedings or
3 criminal sanctions instead of financial loss to assure the
4 appearance of the defendant, and that the defendant will not
5 pose a danger to any person or the community and that the
6 defendant will comply with all conditions of bond. Monetary
7 bail should be set only when it is determined that no other
8 conditions of release will reasonably assure the defendant's
9 appearance in court, that the defendant does not present a
10 danger to any person or the community and that the defendant
11 will comply with all conditions of bond.

12 As a condition of being released by personal recognizance,
13 the court may order a defendant to be placed under the
14 supervision of the Pretrial Services Agency, Probation
15 Department, County Department of Corrections, or Court
16 Services Department in a pretrial bond home supervision
17 capacity with the use of an approved electronic monitoring
18 device.

19 The State may appeal any order permitting release by
20 personal recognizance.

21 (Source: P.A. 97-1150, eff. 1-25-13.)

22 (725 ILCS 5/110-10) (from Ch. 38, par. 110-10)

23 Sec. 110-10. Conditions of bail bond.

24 (a) If a person is released prior to conviction, either
25 upon payment of bail security or on his or her own

1 recognizance, the conditions of the bail bond shall be that he
2 or she will:

3 (1) Appear to answer the charge in the court having
4 jurisdiction on a day certain and thereafter as ordered by
5 the court until discharged or final order of the court;

6 (2) Submit himself or herself to the orders and process
7 of the court;

8 (3) Not depart this State without leave of the court;

9 (4) Not violate any criminal statute of any
10 jurisdiction;

11 (5) At a time and place designated by the court,
12 surrender all firearms in his or her possession to a law
13 enforcement officer designated by the court to take custody
14 of and impound the firearms and physically surrender his or
15 her Firearm Owner's Identification Card to the clerk of the
16 circuit court when the offense the person has been charged
17 with is a forcible felony, stalking, aggravated stalking,
18 domestic battery, any violation of the Illinois Controlled
19 Substances Act, the Methamphetamine Control and Community
20 Protection Act, or the Cannabis Control Act that is
21 classified as a Class 2 or greater felony, or any felony
22 violation of Article 24 of the Criminal Code of 1961 or the
23 Criminal Code of 2012; the court may, however, forgo the
24 imposition of this condition when the circumstances of the
25 case clearly do not warrant it or when its imposition would
26 be impractical; if the Firearm Owner's Identification Card

1 is confiscated, the clerk of the circuit court shall mail
2 the confiscated card to the Illinois State Police; all
3 legally possessed firearms shall be returned to the person
4 upon the charges being dismissed, or if the person is found
5 not guilty, unless the finding of not guilty is by reason
6 of insanity; and

7 (6) At a time and place designated by the court, submit
8 to a psychological evaluation when the person has been
9 charged with a violation of item (4) of subsection (a) of
10 Section 24-1 of the Criminal Code of 1961 or the Criminal
11 Code of 2012 and that violation occurred in a school or in
12 any conveyance owned, leased, or contracted by a school to
13 transport students to or from school or a school-related
14 activity, or on any public way within 1,000 feet of real
15 property comprising any school.

16 Psychological evaluations ordered pursuant to this Section
17 shall be completed promptly and made available to the State,
18 the defendant, and the court. As a further condition of bail
19 under these circumstances, the court shall order the defendant
20 to refrain from entering upon the property of the school,
21 including any conveyance owned, leased, or contracted by a
22 school to transport students to or from school or a
23 school-related activity, or on any public way within 1,000 feet
24 of real property comprising any school. Upon receipt of the
25 psychological evaluation, either the State or the defendant may
26 request a change in the conditions of bail, pursuant to Section

1 110-6 of this Code. The court may change the conditions of bail
2 to include a requirement that the defendant follow the
3 recommendations of the psychological evaluation, including
4 undergoing psychiatric treatment. The conclusions of the
5 psychological evaluation and any statements elicited from the
6 defendant during its administration are not admissible as
7 evidence of guilt during the course of any trial on the charged
8 offense, unless the defendant places his or her mental
9 competency in issue.

10 (b) The court may impose other conditions, such as the
11 following, if the court finds that such conditions are
12 reasonably necessary to assure the defendant's appearance in
13 court, protect the public from the defendant, or prevent the
14 defendant's unlawful interference with the orderly
15 administration of justice:

16 (1) Report to or appear in person before such person or
17 agency as the court may direct;

18 (2) Refrain from possessing a firearm or other
19 dangerous weapon;

20 (3) Refrain from approaching or communicating with
21 particular persons or classes of persons;

22 (4) Refrain from going to certain described
23 geographical areas or premises;

24 (5) Refrain from engaging in certain activities or
25 indulging in intoxicating liquors or in certain drugs;

26 (6) Undergo treatment for drug addiction or

1 alcoholism;

2 (7) Undergo medical or psychiatric treatment;

3 (8) Work or pursue a course of study or vocational
4 training;

5 (9) Attend or reside in a facility designated by the
6 court;

7 (10) Support his or her dependents;

8 (11) If a minor resides with his or her parents or in a
9 foster home, attend school, attend a non-residential
10 program for youths, and contribute to his or her own
11 support at home or in a foster home;

12 (12) Observe any curfew ordered by the court;

13 (13) Remain or be placed in the custody of such
14 designated person or organization agreeing to supervise
15 his or her release, with or without the use of an approved
16 electronic monitoring device administered by a Pretrial
17 Services Agency, Probation Department, County Department
18 of Corrections, or Court Services Department. Such third
19 party custodian shall be responsible for notifying the
20 court if the defendant fails to observe the conditions of
21 release which the custodian has agreed to monitor, and
22 shall be subject to contempt of court for failure so to
23 notify the court;

24 (14) Be placed under direct supervision of the Pretrial
25 Services Agency, Probation Department, County Department
26 of Corrections, or Court Services Department in a pretrial

1 bond home supervision capacity with or without the use of
2 an approved electronic monitoring device subject to
3 Article 8A of Chapter V of the Unified Code of Corrections;

4 (14.1) The court shall impose upon a defendant who is
5 charged with any alcohol, cannabis, methamphetamine, or
6 controlled substance violation and is placed under direct
7 supervision of the Pretrial Services Agency, Probation
8 Department, County Department of Corrections, or Court
9 Services Department in a pretrial bond home supervision
10 capacity with the use of an approved monitoring device, as
11 a condition of such bail bond, a fee that represents costs
12 incidental to the electronic monitoring for each day of
13 such bail supervision ordered by the court, unless after
14 determining the inability of the defendant to pay the fee,
15 the court assesses a lesser fee or no fee as the case may
16 be. The fee shall be collected by the clerk of the circuit
17 court. The clerk of the circuit court shall pay all monies
18 collected from this fee to the county treasurer for deposit
19 in the substance abuse services fund under Section 5-1086.1
20 of the Counties Code;

21 (14.2) The court shall impose upon all defendants,
22 including those defendants subject to paragraph (14.1)
23 above, placed under direct supervision of the Pretrial
24 Services Agency, Probation Department or Court Services
25 Department in a pretrial bond home supervision capacity
26 with the use of an approved monitoring device, as a

1 condition of such bail bond, a fee which shall represent
2 costs incidental to such electronic monitoring for each day
3 of such bail supervision ordered by the court, unless after
4 determining the inability of the defendant to pay the fee,
5 the court assesses a lesser fee or no fee as the case may
6 be. The fee shall be collected by the clerk of the circuit
7 court. The clerk of the circuit court shall pay all monies
8 collected from this fee to the county treasurer who shall
9 use the monies collected to defray the costs of
10 corrections. The county treasurer shall deposit the fee
11 collected in the county working cash fund under Section
12 6-27001 or Section 6-29002 of the Counties Code, as the
13 case may be;

14 (14.3) The Chief Judge of the Judicial Circuit may
15 establish reasonable fees to be paid by a person receiving
16 pretrial services while under supervision of a pretrial
17 services agency, probation department, or court services
18 department. Reasonable fees may be charged for pretrial
19 services including, but not limited to, pretrial
20 supervision, diversion programs, electronic monitoring,
21 victim impact services, drug and alcohol testing, DNA
22 testing, GPS electronic monitoring, assessments and
23 evaluations related to domestic violence and other
24 victims, and victim mediation services. The person
25 receiving pretrial services may be ordered to pay all costs
26 incidental to pretrial services in accordance with his or

1 her ability to pay those costs;

2 (14.4) For persons charged with violating Section
3 11-501 of the Illinois Vehicle Code, refrain from operating
4 a motor vehicle not equipped with an ignition interlock
5 device, as defined in Section 1-129.1 of the Illinois
6 Vehicle Code, pursuant to the rules promulgated by the
7 Secretary of State for the installation of ignition
8 interlock devices. Under this condition the court may allow
9 a defendant who is not self-employed to operate a vehicle
10 owned by the defendant's employer that is not equipped with
11 an ignition interlock device in the course and scope of the
12 defendant's employment;

13 (15) Comply with the terms and conditions of an order
14 of protection issued by the court under the Illinois
15 Domestic Violence Act of 1986 or an order of protection
16 issued by the court of another state, tribe, or United
17 States territory;

18 (16) Under Section 110-6.5 comply with the conditions
19 of the drug testing program; and

20 (17) Such other reasonable conditions as the court may
21 impose.

22 (c) When a person is charged with an offense under Section
23 11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14,
24 12-14.1, 12-15 or 12-16 of the Criminal Code of 1961 or the
25 Criminal Code of 2012, involving a victim who is a minor under
26 18 years of age living in the same household with the defendant

1 at the time of the offense, in granting bail or releasing the
2 defendant on his own recognizance, the judge shall impose
3 conditions to restrict the defendant's access to the victim
4 which may include, but are not limited to conditions that he
5 will:

6 1. Vacate the Household.

7 2. Make payment of temporary support to his dependents.

8 3. Refrain from contact or communication with the child
9 victim, except as ordered by the court.

10 (d) When a person is charged with a criminal offense and
11 the victim is a family or household member as defined in
12 Article 112A, conditions shall be imposed at the time of the
13 defendant's release on bond that restrict the defendant's
14 access to the victim. Unless provided otherwise by the court,
15 the restrictions shall include requirements that the defendant
16 do the following:

17 (1) refrain from contact or communication with the
18 victim for a minimum period of 72 hours following the
19 defendant's release; and

20 (2) refrain from entering or remaining at the victim's
21 residence for a minimum period of 72 hours following the
22 defendant's release.

23 (e) Local law enforcement agencies shall develop
24 standardized bond forms for use in cases involving family or
25 household members as defined in Article 112A, including
26 specific conditions of bond as provided in subsection (d).

1 Failure of any law enforcement department to develop or use
2 those forms shall in no way limit the applicability and
3 enforcement of subsections (d) and (f).

4 (f) If the defendant is admitted to bail after conviction
5 the conditions of the bail bond shall be that he will, in
6 addition to the conditions set forth in subsections (a) and (b)
7 hereof:

8 (1) Duly prosecute his appeal;

9 (2) Appear at such time and place as the court may
10 direct;

11 (3) Not depart this State without leave of the court;

12 (4) Comply with such other reasonable conditions as the
13 court may impose; and

14 (5) If the judgment is affirmed or the cause reversed
15 and remanded for a new trial, forthwith surrender to the
16 officer from whose custody he was bailed.

17 (g) Upon a finding of guilty for any felony offense, the
18 defendant shall physically surrender, at a time and place
19 designated by the court, any and all firearms in his or her
20 possession and his or her Firearm Owner's Identification Card
21 as a condition of remaining on bond pending sentencing.

22 (Source: P.A. 96-340, eff. 8-11-09; 96-1551, eff. 7-1-11;
23 97-401, eff. 1-1-12; 97-1109, eff. 1-1-13; 97-1150, eff.
24 1-25-13.)

25 Section 10. The Unified Code of Corrections is amended by

1 changing Section 5-8A-3 as follows:

2 (730 ILCS 5/5-8A-3) (from Ch. 38, par. 1005-8A-3)

3 Sec. 5-8A-3. Application.

4 (a) Except as provided in subsection (d), a person charged
5 with or convicted of an excluded offense may not be placed in
6 an electronic home detention program, except for bond pending
7 trial or appeal or while on parole, aftercare release, or
8 mandatory supervised release.

9 (b) A person serving a sentence for a conviction of a Class
10 1 felony, other than an excluded offense, may be placed in an
11 electronic home detention program for a period not to exceed
12 the last 90 days of incarceration.

13 (c) A person serving a sentence for a conviction of a Class
14 X felony, other than an excluded offense, may be placed in an
15 electronic home detention program for a period not to exceed
16 the last 90 days of incarceration, provided that the person was
17 sentenced on or after the effective date of this amendatory Act
18 of 1993 and provided that the court has not prohibited the
19 program for the person in the sentencing order.

20 (d) A person serving a sentence for conviction of an
21 offense other than for predatory criminal sexual assault of a
22 child, aggravated criminal sexual assault, criminal sexual
23 assault, aggravated criminal sexual abuse, or felony criminal
24 sexual abuse, may be placed in an electronic home detention
25 program for a period not to exceed the last 12 months of

1 incarceration, provided that (i) the person is 55 years of age
2 or older; (ii) the person is serving a determinate sentence;
3 (iii) the person has served at least 25% of the sentenced
4 prison term; and (iv) placement in an electronic home detention
5 program is approved by the Prisoner Review Board.

6 (e) A person serving a sentence for conviction of a Class
7 2, 3 or 4 felony offense which is not an excluded offense may
8 be placed in an electronic home detention program pursuant to
9 Department administrative directives.

10 (f) Applications for electronic home detention may include
11 the following:

12 (1) pretrial or pre-adjudicatory detention;

13 (2) probation;

14 (3) conditional discharge;

15 (4) periodic imprisonment;

16 (5) parole, aftercare release, or mandatory supervised
17 release;

18 (6) work release;

19 (7) furlough; ~~or~~

20 (8) post-trial incarceration; ~~or~~

21 (9) as a condition of bail, as a condition of release
22 on own recognizances, or in lieu of bail.

23 (g) A person convicted of an offense described in clause
24 (4) or (5) of subsection (d) of Section 5-8-1 of this Code
25 shall be placed in an electronic home detention program for at
26 least the first 2 years of the person's mandatory supervised

1 release term.

2 (Source: P.A. 98-558, eff. 1-1-14; revised 11-12-13.)